

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO.: 23-cv-21461-GAYLES/TORRES

**CONNECTICUT GENERAL LIFE
INSURANCE COMPANY,**

Plaintiff,

v.

JUDITH MAE MAYBERG, et al.,

Defendants.

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ORDER

THIS CAUSE comes before the Court on Defendants’ Motion to Dismiss (the “Motion”) [ECF No. 27]. The action was referred to Chief Magistrate Judge Edwin Torres, pursuant to 28 U.S.C. § 636(b)(1)(B), for a ruling on all pretrial, non-dispositive matters, and for a Report and Recommendation on any dispositive matters. [ECF No. 30]. On April 27, 2024, Judge Torres issued his report recommending that the Motion be granted in part and denied in part (the “Report”). [ECF No. 31]. No party has objected to the Report.

A district court may accept, reject, or modify a magistrate judge’s report and recommendation. 28 U.S.C. § 636(b)(1). Those portions of the report and recommendation to which objection is made are accorded *de novo* review, if those objections “pinpoint the specific findings that the party disagrees with.” *United States v. Schultz*, 565 F.3d 1353, 1360 (11th Cir. 2009); *see also* Fed. R. Civ. P. 72(b)(3). Any portions of the report and recommendation to which *no* specific objection is made are reviewed only for clear error. *Liberty Am. Ins. Grp., Inc. v. WestPoint*

Underwriters, L.L.C., 199 F. Supp. 2d 1271, 1276 (M.D. Fla. 2001); *accord Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006).

In the First Amended Complaint, Plaintiff alleges claims against Judith Mae Mayberg (“Judith”) and her children Aviva A. Fistel (“Aviva”), Joseph Isac Mayberg (“Joseph”), Menachem Mendel Mayberg (“Menachem”), Miriam Friedfertig (“Miriam”), Schneur Zalman Mayberg (“Schneur”), and Shalom Douber Mayberg (“Shalom”) (collectively, the “Mayberg Children”) (together with Judith the “Defendants”) for unjust enrichment (Count I), conversion (Count II), and money had and received (Count III). [ECF No. 26]. In addition, Plaintiff alleges a claim against Judith for fraudulent inducement (Count IV), and against the Mayberg Children for aiding and abetting fraud. *Id.* The Mayberg Children have moved to dismiss the claims against them. [ECF No. 27]. In his Report, Judge Torres recommends that the Court dismiss the claims in the First Amended Complaint against the Mayberg Children except the conversion claim against Menachem. [ECF No. 31]. The Court has reviewed the Report for clear error and agrees with Judge Torres’s findings and recommendation.

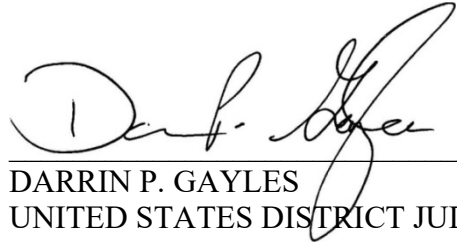
CONCLUSION

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

- (1) Judge Torres’s Report and Recommendation, [ECF No. 31], is **ADOPTED in full**;
- (2) Defendants’ Motion to Dismiss, [ECF No. 31], is **GRANTED in part and DENIED in part**;
- (3) Plaintiff’s claims for unjust enrichment (Count I), money had and received (Count III), and aiding and abetting fraud (Count V) against the Mayberg Children are **DISMISSED without prejudice**.

- (4) Plaintiff's claim for conversion (Count II) against Miriam, Aviva, Shalom, Schneur, and Joseph is **DISMISSED without prejudice**. Plaintiff's claim for conversion against Menachem may proceed.

DONE AND ORDERED in Chambers at Miami, Florida, this 5th day of June, 2024.



DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE